IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 477 OF 1999

Jabubai Tatya Gosavi ..Appellant

versus

Bhagwan Ganpat Wategaonkar

& Ors. ..Respondents

Mr. S. Banavadikar i/b. R.V. More for the Appellant.

Mr. V. B.Rajure for the Respondent No.2.

Mr. D. L. Mahadik i/b. S. R. Singh for the Respondent No.3.

CORAM : D. G. DESHPANDE,J.

DATE : 12TH APRIL,2005

ORAL ORDER :

1. Heard learned Advocates for the parties.

2. This appeal is filed by the Appellant - Original Applicant No.2 for enhancement of compensation where nine years old child met with an accident. The appellant has claimed Rs.89,000/- only as compensation. The Tribunal awarded only Rs.25,000/- for loss of love, affection and mental suffering etc. For enhancement of the compensation

the present appeal is filed.

3. Counsel for the insurance company strongly contended that he was an unauthorised passenger and Insurance Company is not liable to pay. There is no cross appeal by the insurance company. Therefore now the court cannot go into that aspect of the matter. Awarding compensation at Rs.25,000/- that too inclusive of no fault liability is totally inadequate and improper. In fact Rs.25,000/- is to be granted only for loss of love and affection and therefore claim of Rs.89,000/- is perfectly justified.

4. Counsel for the Insurance company also urged that the owner is exonerated improperly by the Tribunal. The owner has been joined in this appeal, if the driver could be held liable and responsible and also the insurance company was made liable then the owner should have been also made liable. Therefore, I pass the following order :

ORDER

. Appeal is partly allowed.

. Respondents jointly and severally to pay Rs.89,000/- with 9% interest from the date of filing of application and costs before the Tribunal. No order as to costs in this appeal.

12.04.2005 (D.G. DESHPANDE, J.)